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10/583,075	06/15/2006	Michael B. Puczkowski	TRAC 2 00002 US	9140
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Fay Sharpe LLP 1228 Euclid Avenue, 5th Floor The Halle Building Cleveland, OH 44115				
EXAMINER				
WALCZAK, DAVID J				
ART UNIT		PAPER NUMBER		
3751				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/583,075

**Applicant(s)**

PUCZKOWSKI, MICHAEL B.

**Examiner**

David J. Walczak

**Art Unit**

3751

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37 and 38 is/are allowed.
- 6) ☐ Claim(s) 21-36, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 6/15/06

## **DETAILED ACTION**

### ***Abstract***

The abstract of the disclosure is objected to because a properly presented abstract should be submitted on a separate sheet with no other verbiage thereon. Correction is required. See MPEP § 608.01(b).

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the wipe (see claim 30) must be shown or the feature canceled from the claim. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

Claims 21-33, 39 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 21, 24 and 28, the recitation "of a conventional roller" is indefinite in that such rollers are not of a standard size. Accordingly, it is unclear as to what structural limitation this recitation imparts onto the claims.

In regard to claim 39, this claim is indefinite in that it depends from canceled claim 17. It appears that the Applicant intended to claim 39 to depend from claim 37, as opposed to 17.

In regard to claim 40, an antecedent basis for "the fluid supply line" has not been defined. It appears that the Applicant intended for claim 40 to depend from claim 39, as opposed to claim 37.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Wichern (U.S. 2,955,310, as cited by the Applicant).

In regard to claim 34, Wichern discloses a fluid applicator assembly comprised of a frame 37, a first roller 31 connected to the frame (via various elements), a fluid supply tube 45 having a discharge opening 47 connected to the frame and spaced from the first roller (the tube 45 is able to pivot away from the roller), a fluid supply line 99 in communication with the supply tube 45 and an associated paint source 113, a handle bar 14 pivotally connected to the frame (at 53 and 55) wherein the handle bar is "adapted to attach to an associated handle for maneuvering the assembly" and a fitting assembly 71 connected to the handle bar 14 and the supply line 99 wherein the fitting assembly includes an opening 83 "dimensioned to receive the associated handle" and a passage 81 through which fluid can flow into the line 99 wherein the fitting includes an "adjustable nut" (the threaded area of the fitting the receives screw 75) "to allow the orientation of the handle to change.

In regard to claim 35, a "standoff" 69 is "associated" with the frame which will inhibit the supply tube 45 from inadvertently contacting an undesired surface.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (U.S. 3,195,170, as cited by the Applicant).

In regard to claims 21 and 24, Howard discloses a fluid applicator assembly comprised of a frame 202, 204 and/or 214, 224 having first and second roller mounts (for mounting first and second rollers 222) such that rollers can be mounted to the frame such that their central axes are spaced from one another wherein the first and second roller mounts are spaced from uppermost and lowermost ends of the frame, a fluid supply tube 148 and /or, 230 connected to the frame and spaced from the first roller mount wherein the fluid supply tube is adapted to communicate with a fluid source 20 and a "shield" 210 connected to the frame and capable of preventing splattering of fluid (at least to some degree). Although the Howard reference does not disclose the distance in which the mounts are spaced from the ends of the frame, depending on the size of the rollers being employed (i.e., as discussed above, there is no standard roller size and it is unclear as to what limitation "conventional" imparts onto the claims; further, the rollers themselves are not being claimed), the mounts can be spaced such that the distances from the mounts to the ends of the frame are greater than the diameter of the rollers. Accordingly, it would be obvious to one of ordinary skill in the art

at the time the invention was made that should a roller having a small enough radius be employed, the mounts would be positioned at the claimed location.

In regard to claim 22, the frame comprises first and second side rails 214 attached by a strut 224 that is perpendicular to the side rails.

In regard to claim 23, as supply tube 148 is flexible, it is considered to be "adjustable" with respect to the frame.

In regard to claim 25, the above discussed ends of the frame define "standoffs" disposed "above" the supply tube (depending on the orientation of the device) that would operate as claimed upon the usage of a roller having a small enough radius.

In regard to claim 26, the standoffs are disposed at the "uppermost" end of the frame (again, depending on the orientation of the device).

In regard to claim 27, tube 148 defines a "highly flexible", "high memory" fluid supply line that is attached to supply tube 230 "without the use of hand tools" (viewing Figure 8, tube 148 is slipped over tube 230).

In regard to claim 28, the "shield" 210 is disposed adjacent the first roller mount and is contoured to "generally follow" the shape of a portion of a "conventional" roller wherein the shield further includes two projections 212 extending toward the first roller mount with the projections being spaced a distance "at least equal to about the length of a conventional roller".

In regard to claims 29 and 30, elements 202, 204 define a "second shield"/ "wiper" disposed adjacent the second roller mount.

In regard to claim 31, a handle bar 236 is pivotally attached to the frame (via various elements) wherein the bar 236 is "adapted to attach" to an associated handle.

In regard to claim 32, a fitting 238 is attached to the handle bar 236 and a supply line 148 is attached to the fitting and communicates with the supply tube 232 wherein the fitting is "adapted to receive" an associated handle having an internal passageway and the fitting is "adjustable" (i.e., the fitting is capable of moving with respect to the frame and is thereby considered to be "adjustable"). It is noted that since the "associated handle" is not being claimed, the fitting 238 discloses the claimed structure.

In regard to claim 33, a "drip guard" (defined by roller 222) is selectively attached to the frame and spaced from the second roller mount opposite the first roller mount.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wichern in view of Howard.

Although the Wichern reference does not disclose the use of a second roller, attention is directed to the Howard reference, which discloses another paint roller applicator wherein two rollers are employed in order to enable a user to spread more paint over a greater area in a quicker fashion. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the Wichern device can be modified to include a second roller in order to enable a user to spread more paint over a greater area in a quicker fashion.

***Allowable Subject Matter***



Claims 37 and 38 are allowed.

Claim 40 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Catlin and Jolly references are cited for disclosing other pertinent structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huson Gregory can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner  
Art Unit 3751

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7/22/09

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